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**REMARKS**

Upon entry of this paper, claims 1-32 are pending. No claims are amended. No new matter has been added. The Examiner rejected claims 1, 5, 7-9, 15-17, 21, 23-25, 29, 31, and 32 under 35 U.S.C. §103(a) as obvious over U.S. Pat. No. 6,751,794 to McCaleb et al. (hereinafter "McCaleb") in view of U.S. Pat. No. 6,279,030 to Britton et al. (hereinafter "Britton"). The Examiner also rejected claims 2, 10, 18, and 26 under 35 U.S.C. §103(a) as obvious over McCaleb in view of Britton as applied to claims 1, 9, 17 and 25, respectively, and further in view of U.S. Pat. No. 6,442,754 to Curtis (hereinafter "Curtis"). The Examiner further rejected claims 3, 11, 19, and 27 under 35 U.S.C. §103(a) as obvious over McCaleb in view of Britton as applied to claims 1, 9, 17 and 25, respectively, and further in view of U.S. Pat. No. 6,266,811 to Nabahi (hereinafter "Nabahi"). The Examiner rejected claims 4, 12, 20, and 28 under 35 U.S.C. §103(a) as obvious over McCaleb in view of Britton as applied to claims 1, 9, 17 and 25, respectively, and further in view of U.S. Pat. No. 6,513,159 to Dodson (hereinafter "Dodson"). The Examiner rejected claims 6, 14, 22, and 30 under 35 U.S.C. §103(a) as being unpatentable over McCaleb in view of Britton as applied to claims 1, 9, 17 and 25, respectively, and further in view of Dodson.

**Specification Objections**

The objections to the specification noted by the Examiner have been corrected by the amendments set forth above.

**Provisional Double Patenting Rejection**

The Examiner provisionally rejected claims 1-32 under the judicially created doctrine obviousness-type double patenting as being unpatentable over claims 1-58 of co-pending Application No. 09/851,923 and claims 1-52 of co-pending Application No. 09/852,113. Applicants have executed terminal disclaimers in compliance with 37 C.F.R. 3.73(b), which are submitted herewith.

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Summary of the Claimed Invention

The claimed invention provides a method, system and program for using conditional statements with patch attribute statements to determine whether to install a patch on a computer. A set of conditional statements is provided that return a Boolean response base on a presence of a software or hardware component indicated in a computer object for the computer on which the patch will be applied. A patch attribute statement is called with at least one conditional statement that returns a list of one or more patches if that at least one conditional statement is true. An attribute defined for an attribute statement is associated with the installation of the patch to the computer. A script program resides on the computer is provided with a patch, wherein the script program executes and processes a computer object including information on installed software and hardware components determined in the computer to determine whether at least one conditional statement associated with each patch attribute statement is true.

Summary of McCaleb

McCaleb discusses a method to remotely update software for a plurality of client systems. A request for an upgrade is sent to a server system by a client system. The server system consults a database to retrieve the configuration information of the client system and generate a script file to send to the client system to execute. The script file contains at least one instruction that directs the client system to collect application information about the software application installed on the client system. The server system has no knowledge whether the most updated package available for the software application have been installed on the client system. The client sends the application information about the software application to the server system. The server performs a comparison between the application information about the software application and the most updated upgrade package for the software application. If the comparison indicates that the most updated upgrade package has not been installed on the client system, the server sends the most updated upgrade package for the software application to the client system.

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Summary of Britton

Britton discusses a method and system wherein a program component can be dynamically selected for downloading, based on one or more current values of changeable attributes. Attribute values may represent a user's authorization privileges, current working environment, preferences, etc. Britton also discusses a technique to dynamically select a specific version from multiple available versions of a program component based on current values of changeable attributes. The values of changeable attributes may be provided from a plurality of sources, including a user, configuration mechanisms on the user's machine, the network gateway, or a network database of user or group preferences and administrative policy information. The dynamic selection process may occur on a server in the network, or on the client's local machine.

Summary of Curtis

Curtis discusses a method, system, and program for checking dependencies of installed software components during installation or uninstallation of software. Dependency objects indicate a dependent component on which the program to install depends. The program processes the dependency objects before installing the program and determines an operating system command that is capable of determining whether the dependent components indicated in the dependency object is installed in the computer. An indication is made as to the dependent components that are not installed after determining that dependent components are not installed.

Summary of Nabahi

Nabahi discusses a method and system for installing an application software package onto a computer using rule-based installation engine. Custom installation parameters are translated into a simplified script language file by a system administrator. The application software package is installed onto a computer using the standard rule-based installation engine which is executed normally according to commands stored in a rule-based instruction file. The rule-based instruction file is modified and configured by the provider of the application software package to cause the rule-based installation engine to execute commands according to the simplified script language file.

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Summary of Nabahi

Nabahi discusses an automatic installation program that determines if a driver should be installed or updated. The automatic installation program includes a system evaluator and a driver evaluator. The system evaluator evaluates the hardware configuration of the computer and the driver evaluator determines the drivers installed on the computer. The installation program assembles a stack from the hardware configuration, and compares the stack with the stacks in a valid package matrix. If a match is found, the installation program then compares the drivers in the matched stack with the information collected by the driver evaluator. The installation program further determines which driver need to be installed and which drivers need to be updated.

Rejection of claims 1, 5, 7-9, 15-17, 21, 23-25, 29, 31, and 32 under to 35 U.S.C. §103(a)

The Examiner rejected claims 1, 5, 7-9, 15-17, 21, 23-25, 29, 31, and 32 under 35 U.S.C. §103(a) as obvious over McCaleb in view of Britton. Claims 1, 9, 17, and 25 are independent. Applicant respectfully traverse this rejection.

Claim 1 is not obvious over McCaleb and Britton because these references fail to teach or suggest the step of "generating a script program including at least on patch attribute statement, wherein each patch attribute statement is called with at least one conditional statement that returns a list of one or more patches if the at least one conditional statement evaluates as true based on a presence of a software or hardware component indicated in a computer object for the computer on which the patch will be applied, and wherein an attribute defined for the attribute statement is associated with the installation of the patch to the computer if the computer includes the returned list of patches." These references also fail to teach or suggest the step of "associating the script program with the patch, wherein the script program executes and processes the computer object including information on installed software and hardware components to determine whether to install the patch on the computer based on attributes of the installation determined by the script program."

The examiner suggests that McCaleb teaches the elements of claim 1 in column 4, line 59 to column 5, line 50. However, in the cited section, McCaleb discusses a server retrieving

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configuration information about a client system from a database and generating a script file which is further sent to a client system over a network. The script file contains instructions to collect information of the software installed on the client system. The client system executes the script file generated by the server system to collect application information of the software program installed on the client system and sends the information back to the server. The server sends the most updated version to the client system to update its local version. The claimed invention requires a script program generated on a computer on which the patch will be applied instead of on the server. The script program includes at least one patch attribute statement which is called with at least one conditional statement, and the at least one conditional statement evaluates as true based on a presence of a software or hardware component indicated in a computer object for the local computer on which the patch will be applied. McCaleb fails to teach the use of conditional statements with attribute statements to determine if a patch should be applied. Nor does McCaleb suggest the claimed invention.

In the Background of the present application, Applicants point out that prior art techniques require the execution of a program that interrogates system files each time updates are requested and the claimed invention has provided a solution to avoid this problem; however, McCaleb discloses one of these prior art techniques because McCaleb discloses that the client system executes the script file generated by the server system to collect application information of the software program installed on the client system. Therefore, McCaleb does not teach or suggest how to avoid the problem of executing a program (script) to collect application information when an update is needed, and, therefore, McCaleb fails to teach or suggest the elements in claim 1.

Britton also does not teach or suggest the elements in claim 1 and does not suggest the deficiencies of McCaleb identified above. Britton discusses a method and system wherein a program component can be dynamically selected for downloading, based on one or more current values of one or more changeable attributes. Attribute values may represent a user's authorization privileges, current working environment, preferences, etc. The claimed invention uses at least one conditional statement with each patch attribute statement to determine if a patch should be installed. Furthermore, the at least one conditional statement evaluates to true based on a presence of a software or hardware component indicated in a computer object for the

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computer on which the patch will be applied. Britton does not teach the use of conditional statements with attribute statements to determine if a patch should be installed. Therefore, Britton does not teach all the elements in claim 1. Furthermore, there is no need for Britton to use conditional statements with attribute statements including attributes like the claimed invention to determine if a program component should be selected for downloading. Britton only needs to look at the attributes to determine its action, but that is not enough for the claimed invention. Therefore, Britton does not suggest the claimed invention either.

McCaleb in view of Britton still fails to disclose the use of conditional statements with attribute statements including attributes to determine if a patch should be installed. McCaleb or Britton by itself does not suggest the claimed invention and therefore the combination does not suggest the claimed invention either.

For the reasons set forth above, McCaleb in view of Britton fails to disclose or suggest every element in claim 1. Independent claims 9, 17, and 25 are corresponding system claim, article of manufacture claim, and medium claim, respectively that parallel claim 1. The arguments made above with respect to why claim 1 is neither taught nor suggested by McCaleb in combination with Britton apply with equal force here and are reiterated as of set forth in full. Accordingly, Applicants respectfully request the Examiner to reconsider and withdraw the rejection made for independent claims 1, 9, 17, and 25 and their dependent claims, 5, 7, 8, 13, 15, 16, 21, 23, 24, 29, 31, and 32.

Rejection of claims 2, 10, 18, and 26 under to 35 U.S.C. §103(a)

The Examiner rejected claims 2, 10, 18, and 26 under 35 U.S.C. §103(a) as obvious over McCaleb in view of Britton as applied to claims 1, 9, 17 and 25, respectively, and further in view of Curtis. For the reason set forth below, Applicants respectfully traverse these rejections.

Claims 2, 10, 18, and 26 are dependent claims of 1, 9, 17, and 25, respectively. The arguments made above with respect to why claims 1, 9, 17, and 25 are neither taught nor suggested by McCaleb in combination with Britton apply with equal force here and are reiterated as of set forth in full. Furthermore, Curtis does not teach or suggest the missing elements from McCaleb and Britton.

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Curtis did not discuss the use of conditional statements with attribute statements to determine whether a program (patch) should be installed. Additionally, Curtis's invention is for checking dependencies of installed software components during installation or uninstallation of software, and therefore does not suggest the capability of checking whether a program (patch) should be installed before the computer starts to install the program.

Therefore, McCaleb in view of Britton further in view of Curtis does not teach or suggest all the elements of claims 2, 10, 18, or 26. Accordingly, Applicants respectfully request the allowance of claims 2, 10, 18 and 26.

Rejection of claims 3, 11, 19, and 27 under to 35 U.S.C. §103(a)

The Examiner rejected claims 3, 11, 19, and 27 under 35 U.S.C. §103(a) as obvious over McCaleb in view of Britton as applied to claims 1, 9, 17 and 25, respectively, and further in view of Nabahi. For the reason set forth below, the Applicants respectfully traverse these rejections.

Claims 3, 11, 19, and 27 are dependent claims of 1, 9, 17, and 25, respectively. The arguments made above with respect to why claims 1, 9, 17, and 25 are neither taught nor suggested by McCaleb in combination with Britton apply with equal force here and are reiterated as of set forth in full. Furthermore, Nabahi does not teach or suggest the missing elements from McCaleb and Britton.

Nabahi does not discuss the use of conditional statements with attribute statements to determine whether an application software package (or a patch) should be installed. Nabahi discusses the use of rule-based installation engine with custom installation parameters for installation of an application software package. Nabahi's invention is about installing a software program and not about determining if the software program should be installed.

Therefore, McCaleb in view of Britton further in view of Nabahi does not teach or suggest all the elements in claim 3, 11, 19, or 27. Accordingly, Applicants respectfully request the Examiner to withdraw the rejection of claims 3, 11, 19 and 27.

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Rejection of claims 4, 12, 20, and 28 under to 35 U.S.C. §103(a)

The Examiner rejected claims 4, 12, 20, and 28 under 35 U.S.C. §103(a) as obvious over McCaleb in view of Britton as applied to claims 1, 9, 17 and 25, respectively, and further in view of Dodson. For the reason set forth below, Applicants respectfully traverse these rejections.

Claims 4, 12, 20, and 28 are dependent claims of 1, 9, 17, and 25, respectively. The arguments made above with respect to why claims 1, 9, 17, and 25 are neither taught nor suggested by McCaleb in combination with Britton apply with equal force here and are reiterated as of set forth in full. Furthermore, Dodson does not teach or suggest the missing elements from McCaleb and Britton.

Dodson does not discuss the use of conditional statements with attribute statements to determine if a driver (or a patch) should be installed. Dodson discusses the use of valid package matrix for finding a matching valid stack so that an automatic installation program can determine if a driver should be installed or updated. The matrix contains the information Dodson needed to base its installation or update decision, and there is no incentive to use conditional statements with attribute statements to make the same decision.

Therefore, McCaleb in view of Britton further in view of Dodson does not teach or suggest all the elements in claim 4, 12, 20, or 28. Accordingly, Applicants respectfully request the allowance of claim 4, 12, 20 and 28.

Rejection of claims 6, 14, 22, and 30 under to 35 U.S.C. §103(a)

The Examiner rejected claims 6, 14, 22, and 30 under 35 U.S.C. §103(a) as being unpatentable over McCaleb in view of Britton as applied to claims 1, 9, 17 and 25, respectively, and further in view of Dodson.

The arguments made above with respect to why claims 4, 12, 20, and 28 are neither taught nor suggested by McCaleb in view of Britton further in view of Dodson apply with equal force here and are reiterated as of set forth in full. Accordingly, Applicants respectfully requests the allowance of claims 6, 14, 22, and 30.



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For the reasons set forth above, Applicants respectfully request the Examiner to reconsider and allow claims 1-32.

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**CONCLUSION**

In view of the above amendment, applicant believes the pending application is in condition for allowance.

Applicant believes no fee is due with this statement. However, if a fee is due, please charge our Deposit Account No. 12-0080, under Order No. SMQ-122 from which the undersigned is authorized to draw.

Dated: November 1, 2004

Respectfully submitted,

By   
Kevin J. Canning  
Registration No.: 35,470  
LAHIVE & COCKFIELD, LLP  
28 State Street  
Boston, Massachusetts 02109  
(617) 227-7400  
(617) 742-4214 (Fax)  
Attorney/Agent For Applicant